



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/775,138	02/01/2001	Holton E. Harris	10546-13	7732

7590 07/02/2003

Thomas D. MacBlain  
GALLAGHER & KENNEDY  
2575 East Camelback Road  
Phoenix, AZ 85016

EXAMINER

LEYSON, JOSEPH S

ART UNIT

PAPER NUMBER

1722

DATE MAILED: 07/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/775,138

Applicant(s)

HARRIS, HOLTON E.

Examiner

Joseph Leyson

Art Unit

1722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 1-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 29-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 February 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Art Unit: 1722

1. Applicant's election with traverse of Group III, die claims 29-31 in Paper No. 6 filed on 4 June 2003 is acknowledged. The traversal is on the ground(s) that a complete examiner's search for any one of the three inventions would largely overlap if not be entirely coextensive with the other two inventions and that three-way restriction will result in duplicative. This is not found persuasive because the search and examination of all three inventions would not be coextensive. The issues raised in the examination of apparatus claims are divergent from those raised in the examination of process claims. The issues raised in the examination of combination claims are divergent from those raised in the examination of subcombination claims. Further, while there may be some overlap in the searches of the three inventions, there is no reason to believe that the searches would be identical. Therefore, based on the additional work involved in searching and examining all three distinct inventions together, restriction of the distinct inventions is clearly proper.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 1-28 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to nonelected inventions, there being no allowable generic or linking claim.

Art Unit: 1722

Applicant timely traversed the restriction (election) requirement in Paper No. 6 filed on 4 June 2003.

3. The title and abstract should be amended to reflect the elected invention, i.e., die apparatus only.

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 72, 80. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: 31 and 53. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

Art Unit: 1722

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 29-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Hirschberger(-120).

Hirschberger(-120) teaches a die, that corresponds to the instant die, which includes a first melt path 20 leading into the die from a first input opening 36, a second melt path 24 leading into the die from a second input opening 38, a convergence of the first and second melt paths 20, 24 in the die (figs. 2 and 9), a constriction in each of the first and the second melt paths proximate and upstream of the convergence (figs. 2 and 9), and an output opening 48 for the convergence of an extrudate. A passage 44 downstream of the convergence and leading to the output opening 48, the passage 48 being of sufficient length to permit polymer melt flowing from the convergence to the output to have its cross-sectional shape established. At least one further melt path 28 and at least one further constriction (figs. 2 and 9) in the one further melt path 28.

8. Claims 29-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Nakagawa et al.(-957).

Nakagawa et al.(-957) teach a die, that corresponds to the instant die, which includes a first melt path 27 leading into

Art Unit: 1722

the die from a first input opening, a second melt path 28 leading into the die from a second input opening, a convergence of the first and second melt paths 27, 28 in the die (fig. 7), a constriction in each of the first and the second melt paths proximate and upstream of the convergence (fig. 7), and an output opening for the convergence of an extrudate (fig. 7). A passage downstream of the convergence and leading to the output opening, the passage being of sufficient length to permit polymer melt flowing from the convergence to the output to have its cross-sectional shape established (fig. 7). Figure 12 shows an alternative that includes a further melt path and at least one further constriction in the one further melt path, i.e., three melt paths each having a constriction.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Leyson whose telephone number is (703) 308-2647. The examiner can normally be reached on M-F(8:30-6:00) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker can be reached on (703) 308-0457. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Application/Control Number: 09/775,138

Page 6

Art Unit: 1722

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

*jl*

jl  
June 26, 2003

*James Mackey*  
JAMES P. MACKEY  
PRIMARY EXAMINER

*6/26/03*